IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2128 OF 2005
IN
CIVIL APPLICATION NO.761 OF 2004
IN
WRIT PETITION NO.118 OF 1985

1. Shri Gulab Hasham Mulla, since deceased through LRs -
1a.Smt.Madinabi Gulab Mulla & Ors. .. Applicants/ Petitioners

Vs.

1. Smt.Ashrafbi Abdul Karim, since deceased through LRs -
1(1) Unus @ Inayatullah Karim Mulla and Ors. .. Respondents

Mr.V.Z.Kamkaria with Javeed Hussen for the Applicants/Petitioners

Mrs.Anjali N.Helekar for the respondent no.1 to 4, 6, 7 and 9

CORAM : S.U.KAMDAR, J
DATED : 14TH DECEMBER, 2005

P.C.:

1. The present Civil Application is taken out to restore the Civil Application No.761 of 2004 which was dismissed on the ground of non filing of an affidavit of service. However, it is pointed out that the affidavit of service was filed within the period as provided by order 24.6.04. In that

view of the matter dismissal of the Civil Application is erroneous and therefore order of dismissal of Civil Application no.761 of 2004 is set aside. Civil Application no.761 of 2004 is restored.

2. By consent of the parties, Civil Application No.761 of 2004 placed on board forthwith and called out. Parties heard. Civil Application No.761 of 2004 is for restoration of Writ Petition which was dismissed for default. It is pointed out that the Advocates name was not appearing on the board and therefore the matter could not be located by the learned counsel and thus, could not remain present. Accordingly, petition was dismissed for the aforesaid reasons. I am of the opinion that Civil Application is required to be granted. Civil Application is made absolute. Writ Petition no.118 of 1985 is restored. In the facts and circumstances of the present case, Writ Petition no.118 of 1985 to be placed on board in a week commencing from 16.1.06. Matter to be placed peremptorily high on board in the final hearing list.